

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :  
: 18-cr-387-3 (JSR)  
-v- :  
: MEMORANDUM ORDER  
ELIEZER REYES, :  
: Defendant.  
:  
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JED S. RAKOFF, U.S.D.J.

Eliezer Reyes moves for a reduced sentence pursuant to 18 U.S.C. § 3582(c)(1)(A)(i), which provides:

[T]he court, . . . upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, may reduce the term of imprisonment . . . , after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that . . . extraordinary and compelling reasons warrant such a reduction.

This statute permits a court to reduce a defendant's sentence to time served, as Reyes requests.<sup>1</sup> However, Reyes has not demonstrated entitlement to such relief because he has not demonstrated that extraordinary and compelling circumstances warrant a reduction in his sentence.

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<sup>1</sup> Reyes's counsel's declaration demonstrates that Reyes has satisfied the administrative exhaustion requirement by requesting compassionate release from the Warden of Reyes's facility, which request was denied. See Castro Decl., ECF No. 90.

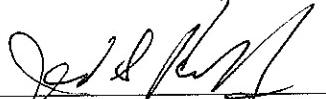
Reyes argues that the COVID-19 pandemic offers extraordinary and compelling reasons warranting his immediate release. He is incarcerated at Fort Dix FCI, which has undeniably failed to contain the COVID-19 outbreak. More than half of all inmates at Fort Dix FCI have tested positive for the virus. Reyes himself contracted COVID-19 in January 2021. Reyes argues that "he is still susceptible to re-infection and there is no telling how the continuous exposure can impact even the healthiest person's mortality." Mem. in Support, ECF No. 89, at 5. Reyes also argues that his release would "assist the BOP in reducing its prisoner population" and that he "would be able to assist his wife with the care of their children." Id.

These arguments do not come close to demonstrating extraordinary and compelling circumstances. In fact, Reyes's concerns are common to a great many inmates. As Reyes himself points out, most inmates at Fort Dix have contracted COVID-19. Many have confronted far higher risks of serious illness or death than Reyes, who is less than forty years old and does not contend that he has any comorbidities. To be sure, releasing any inmate would "assist the BOP in reducing its prisoner population," but this does not show that Reyes's own circumstances are extraordinary and compelling. Finally, Reyes's family circumstances, sadly, are typical. Many inmates made the unfortunate choice to commit crimes even though they had families who needed them.

Because he has not demonstrated extraordinary and compelling reasons warranting a reduction in sentence, Reyes's motion for compassionate release, ECF No. 87, is denied.<sup>2</sup>

SO ORDERED.

Dated: New York, NY  
February 26, 2021

  
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JED S. RAKOFF, U.S.D.J.

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<sup>2</sup> According to the Bureau of Prisons, Reyes's projected release date is June 11, 2022. The Court is heartened to see the letters of support from Reyes's girlfriend, her family members, and a prospective employer. The Court hopes that with their support, Reyes can stay on the right path when he is released.